

REMARKS:

Claims 1-34 are pending. Claims 1-14 and 20-27 are rejected. Claims 15-19 and 28-34 are objected to. Favorable reconsideration of claims 1-34 in their present form is requested in light of the remarks that follow.

Rejection Under 35 U.S.C. § 112

Claims 27-32 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. This rejection is respectfully traversed.

The Examiner appears to believe that the term "the belt" in claim 27 doesn't have a sufficient antecedent basis. Applicants disagree. In a response to the Office Action of March 1, 2002, which was filed on June 18, 2002, applicants changed the dependency of claim 27 to provide for the antecedent basis for the term "the belt." After the amendment, claim 27 depends on claim 26, which introduces the term "belt." Therefore, the rejection under 35 U.S.C. § 112, second paragraph, should be withdrawn.

Rejection Under 35 U.S.C. § 102

Claims 1-11, 13-14 and 20-27 are rejected under 35 U.S.C. § 102(e) as being anticipated by Stylli *et al.*, U.S. Patent No. 5,985,214 (the '214 patent). This rejection is respectfully traversed.

The '214 patent does not anticipate independent claims 1 and 20 of the present invention because it does not teach each element of the claims. The independent claim 1 of the present invention includes a limitation:

a gripper that grips one of the plurality of primary sample tubes, lifts it, and transports the primary sample tube to the sampling station and returns the primary sample tube from the sampling station to the storing station.

The independent claim 20 of the present invention includes a limitation:

a gripper that grips and lifts the primary sample tube contained in a holder, whereby the primary sample tube separates from the holder, and transports the primary sample tube to the sample identification station.

The '214 patent has no teaching whatsoever of a gripper that grips primary sample tubes, much less of a gripper that grips primary sample tubes and transports primary sample tubes to and from sampling station or sample identification station. Instead, the '214 patent teaches a chemical well retriever that retrieves plates by scooping them with a platen that engages plates from the bottom (column 10, lines 46-49; column 11, lines 64-66).

Additionally, the well retriever of the '214 patent cannot transport plates between the storage and sampling modules (column 10, lines 49-51). The capability of the well retriever is limited to the retrieval of the plates from storage module by scooping them with a platen and sliding the plates off the platen onto a bidirectional plate-transporting conveyor (column 56, lines 15-22). The conveyor is used to transport the plates between the storage module and sample distribution module (column 12, lines 27-31; column 55, lines). Thus, unlike the gripper of the present invention that both retrieves sample tubes and transports them to and from sampling station or sample identification station, the retriever of the '214 patent requires a conveyor to transport the plates to and from the storage module.

The Examiner also notes that in column 23, lines 12-18, the '214 patent describes the sample transport can include a plurality of conveyor means of articulated robotic arms for gripping the plates. However, the '214 patent does not teach robotic arms that grip primary sample tubes from the storage module and transport them to and from sampling station or sample identification station.

The '214 patent does not make independent claims 1 and 20 obvious because it teaches away from the present invention. The '214 patent states that "the chemical well retriever will not use a robotic hand that grips the plate from the

plate's side. Instead, it preferably retrieves a plate from the bottom, for example, with a platen" (column 10, lines 46-49). Thus, the '214 patent teaches away from a gripper of the present invention that grips and lifts individual tubes.

Also, as discussed above, the '214 patent requires a combination of a plate retriever and a conveyor to retrieve the plates from the storage module and transport them to and from other modules. Moreover, the '214 patent states, "[t]he chemical well retriever is usually not used as a sample transporter" (column 10, lines 49-50). Based on these teachings, those skilled in the art would have been discouraged from using the retriever of the '214 patent for transporting the plates.

The '214 patent does not make independent claims 1 and 20 obvious because unexpected advantages are achieved in the present invention. The retriever of the '214 patent scoops the plates by engaging their bottoms. Accordingly, the plates are required to have a standard footprint (column 8, lines 60-63). Unexpectedly, the instant invention provides a more flexible system that does not require any standardization of the tubes. The gripper of the present invention grips the tubes rather than scoops them as in the '214 patent. This allows processing of tubes having different sizes and structures (page 10, lines 5-9, of the instant specification).

Therefore, nothing in the '214 patent teaches or suggests a gripper that grips primary sample tubes and transports them to and from sampling station or sample identification station, as required by the instant claims 1 and 20. Thus, the '214 patent does not teach or suggest the instant claims 1 or 20. Claims 2-11, 13-14 and 21-27 depend, directly or indirectly, from the patentable claims 1 and 20 and are, therefore, believed to be patentable for at least the same reasons as claims 1 and 20.

Rejection Under 35 U.S.C. § 103

Claim 12 is rejected under 35 U.S.C. § 103(a) as being unpatentable over the '214 patent in view of Kurosaki *et al.*, U.S. Patent No. 5,587,129 (the '129 patent). This rejection is respectfully traversed.

As discussed above, claim 1 is patentable over the '214 patent. Claim 12 depends from claim 1 and is patentable over the '214 patent for at least the same reasons as claim 1. The '129 patent, cited against claim 12, does not address the deficiencies of the '214 patent and is not relied by the Examiner for such. The Examiner cites the '129 patent for teaching a cap piercer. The '129 patent does not teach or suggest a gripper that grips primary sample tubes and transports them to and from sampling station, as required by claim 1. Therefore, claim 1 and its dependent claim 12 are patentable over a combination of the '214 and the '129 patents.

Applicants thank the Examiner for indicating that claims 15-19 and 28-34 would be allowable if rewritten in independent form and if the rejection under 35 U.S.C. § 112, second paragraph, is overcome. However, since claims 15-19 and 28-34 depend from claims 1 and 20, which are believed to be patentable over the cited art, and claims 27-32 are believed to satisfy the requirements of the second paragraph of 35 U.S.C. § 112, claims 15-19 and 28-34 are believed to be patentable in their current form.

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Reexamination and reconsideration of the application, as amended, are requested.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California telephone number (213) 337-6700 to discuss the steps necessary for placing the application in condition for allowance.

If there are any fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-1314.

Respectfully submitted,
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Dated: May 19, 2003

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